

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

TUESDAY, THE 7TH NOVEMBER 2006 / 16TH KARTHIKA 1928

ITA.No. 66 of 2000()

ITA.17COCH/1996 of I.T.A.TRIBUNAL,COCHIN BENCH

.....

APPELLANT

**THE COMMISSIONER OF INCOME TAX,
COCHIN.**

BY ADV. SRI.P.K.R.MENON(SR.),SC FOR IT

RESPONDENT:

M/S.METRO TRADING SYNDICATE, COCHIN.

BY ADV. SRI.P.BALAKRISHNAN (E)

**THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD
ON 07/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

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I.T.A. No.66 of 2000
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Dated this the 7th day of November, 2006.

JUDGMENT

Ramachandran Nair, J.

The appeal appears to have been filed on the misapprehension that the observations of the Tribunal while remanding the matter will restrict the officer's authority to decide the issue in accordance with law. We find from the order of the Tribunal that the respondent-assessee's claim for deduction under Section 80HHC (3)(b) is remanded by the Tribunal for fresh consideration. Standing Counsel submitted that subsequent to the order of the Tribunal, there has been judgments of this court touching upon the issue. We make it clear that the Assessing Officer is free to decide the matter afresh based on remand by the Tribunal without being influenced by any observations of the Tribunal and he is free to decide the issue in accordance with law and based on binding decisions of this court or the Supreme Court. The Income Tax Appeal is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

K.M.JOSEPH
Judge

pms

C.N.RAMACHANDRAN NAIR &
K.M.JOSEH, JJ.

T.R.C. No. of 200

JUDGMENT

Dated